

# In the Court of Appeals of the State of Alaska

**John Nelson Hunter,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-12203**

## **Order**

Date of Order: **3/16/22**

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Trial Court Case No. **3AN-08-12424CI**

The Appellant, John Nelson Hunter, filed a felony merit appeal, challenging the superior court's dismissal of his application for post-conviction relief. In *Hunter v. State*, Alaska App. Memorandum Decision No. 6481 (June 14, 2017)(petition for hearing denied January 26, 2022), this Court affirmed the superior court's dismissal of one claim from Hunter's application for post-conviction relief, and remanded the second claim to the superior court for further proceedings.

Hunter was represented by counsel at public expense in this appeal. Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to "enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court." Because Hunter was represented by court-appointed counsel in this appeal, because Hunter's appeal was a felony merit appeal, and because Hunter's conviction was not reversed, the Appellate Court Clerk's Office notified Hunter that it intends to enter judgment against him in the amount of \$1500.00 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6).

Hunter objects to the Clerk's notice. Because Hunter objects to the Clerk's intent to enter judgment against him, he is entitled to judicial reconsideration of the Clerk's decision. *See* Alaska Appellate Rule 503(h)(2)(A).

Appellate Rule 209(b)(5) and (6) require criminal defendants whose convictions are not reversed on appeal to reimburse to the government a portion of the cost of the attorneys who represent them at public expense. In his opposition to the entry of judgment for the cost of appellate counsel, Hunter contends that he is incarcerated and that his wages from his prison employment are low. This reason, however, is insufficient to justify reversing the Clerk's decision to enter a judgment against Hunter for a portion of the cost of his court appointed counsel. As a general matter, because nearly all persons with appointed counsel are indigent, the rule applies unless the defendant's convictions are reversed.

Hunter has also expressed concern that the Clerk will enter two judgments for the cost of appellate against him because he was represented at public expense in this appeal by two appointed counsel. But the \$1500.00 judgment affirmed in this order will cover the costs of both appointed counsel who represented Hunter in this appeal.


Because Appellate Rule 209(b)(5) and (6) require criminal defendants whose convictions are not reversed on appeal to reimburse to the government a portion of the cost of the attorneys who represent them at public expense, and because this Court did not reverse Hunter's convictions in this appeal, he is required to reimburse the government a portion of the cost of the attorneys who represented him at public expense. Accordingly, the decision of the Appellate Court Clerk to enter a \$1500.00 judgment against Hunter for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED**.

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That said, if Hunter's convictions are reversed in his reinstated post-conviction relief application, he may file a motion in this Court asking to have the judgment for the cost of counsel under Appellate Rule 209(b) vacated, and to have any funds collected as a result of that judgment returned to him.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



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Ryan Montgomery-Sythe,  
Chief Deputy Clerk

cc: John Nelson Hunter at Goose Creek Correctional Center

Distribution:

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